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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/803,248	03/09/2001	Donald Henry Willis	PU010033	7064

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EXAMINER

ART UNIT	PAPER NUMBER
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DATE MAILED: 02/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Notification of Non-Compliant Appeal Brief (37 CFR 41.37)	Application No. 09/803,248	Applicant(s) WILLIS ET AL.	
	Examiner Jeff Piziali	Art Unit 2673	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--


The Appeal Brief filed on 28 December 2004 is defective for failure to comply with one or more provisions of 37 CFR 41.37.

To avoid dismissal of the appeal, applicant must file an amended brief or other appropriate correction (see MPEP 1205.03) within **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer.

EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136.

1. ☒ The brief does not contain the items required under 37 CFR 41.37(c), or the items are not under the proper heading or in the proper order.
2. ☒ The brief does not contain a statement of the status of all claims, (e.g., rejected, allowed, withdrawn, objected to, canceled), or does not identify the appealed claims (37 CFR 41.37(c)(1)(iii)).
3. ☐ At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 41.37(c)(1)(iv)).
4. ☒ (a) The brief does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number and to the drawings, if any, by reference characters; and/or (b) the brief fails to: (1) identify, for each independent claim involved in the appeal and for each dependent claim argued separately, every means plus function and step plus function under 35 U.S.C. 112, sixth paragraph, and/or (2) set forth the structure, material, or acts described in the specification as corresponding to each claimed function with reference to the specification by page and line number, and to the drawings, if any, by reference characters (37 CFR 41.37(c)(1)(v)).
5. ☒ The brief does not contain a concise statement of each ground of rejection presented for review (37 CFR 41.37(c)(1)(vi)).
6. ☒ The brief does not present an argument under a separate heading for each ground of rejection on appeal (37 CFR 41.37(c)(1)(vii)).
7. ☒ The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 41.37(c)(1)(viii)).
8. ☒ The brief does not contain copies of the evidence submitted under 37 CFR 1.130, 1.131, or 1.132 or of any other evidence entered by the examiner **and relied upon by appellant in the appeal**, along with a statement setting forth where in the record that evidence was entered by the examiner, as an appendix thereto (37 CFR 41.37(c)(1)(ix)).
9. ☐ The brief does not contain copies of the decisions rendered by a court or the Board in the proceeding identified in the Related Appeals and Interferences section of the brief as an appendix thereto (37 CFR 41.37(c)(1)(x)).
10. ☒ Other (including any explanation in support of the above items):

See Continuation Sheet.


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24 January 2006

Continuation of 10. Other (including any explanation in support of the above items): The 'Status of claims' section (see page 2 of the appeal brief submitted 28 December 2004) incorrectly identifies claims 1-29 as being rejected. The most recent office action (mailed 28 April 2004) identifies only claims 1, 2, 5-11, and 14-29 as being rejected.

The 'Status of amendments' section (see page 2 of the appeal brief submitted 28 December 2004) improperly states, "all amendments were entered." In fact, no amendment has been filed (or entered) subsequent to the final rejection.

The 'Summary of claimed subject matter' section (see pages 2-6 of the appeal brief submitted 28 December 2004) improperly includes an inaccurate copy of the claims. The claims differ from the claims of the immediate prior version (see the amendment and response submitted 26 January 2004). Moreover, simply providing a copy of every claim can hardly be considered "a concise explanation of the appealed subject matter" -- especially when some of those provided claims (claims 3, 4, 12, and 13) aren't even currently rejected.


The 'Grounds of rejection to be reviewed on appeal' section (see page 6 of the appeal brief submitted 28 December 2004) improperly refers to no longer current grounds of rejection from a non-existent office action. Note, there is no "office action dated Dec. 12, 2003" associated with this application. There was a non-final office action mailed 5 December 2003, however, that office action and the associated grounds of rejection were replaced by the final office action mailed 28 April 2004. The 'Grounds of rejection to be reviewed on appeal' section also refers to "the office action dated April 2004," although it remains unclear if that is meant to refer to the aforementioned final office action mailed 28 April 2004. Regardless, the grounds of rejection (including Jang [US 5,361,094]) applied to claims 2, 14, and 22-24 is never mentioned anywhere by the brief.

The 'Argument' section (see pages 7-17 of the appeal brief submitted 28 December 2004) improperly argues no longer current grounds of rejection from a non-existent office action. Note, there is no "office action dated Dec. 12, 2003" associated with this application. There was a non-final office action mailed 5 December 2003, however, that office action and the associated grounds of rejection were replaced by the final office action mailed 28 April 2004. The 'Argument' section also refers to "the office action dated April 2004," although it remains unclear if that is meant to refer to the aforementioned final office action mailed 28 April 2004. Regardless, the grounds of rejection (including Jang [US 5,361,094]) applied to claims 2, 14, and 22-24 is never mentioned anywhere by the brief. In fact, only the rejection of claims 1, 11, and 21 is ever argued -- leaving it unclear whether the grounds of rejection of any other claims is even being appealed.

At least 'The New IEEE Standard Dictionary of Electrical and Electronics Terms' (see page 14 of the appeal brief submitted 28 December 2004) is cited by the brief; however, no copies of any evidence relied upon in the appeal has been included with the brief. Nor is there even an 'Evidence appendix' section present in the brief.

The 'Claims appendix' section (see pages 19-22 of the appeal brief submitted 28 December 2004 -- improperly identified as 'Appendix I - Appealed Claims'), includes an inaccurate copy of the claims. The claims differ substantially from the claims of the immediate prior version (see the amendment and response submitted 26 January 2004).

By such reasoning, this notification of non-compliant appeal brief is deemed necessary, proper, and thereby maintained at this time.


1/24/06